Remarks

The Office Action indicates claims 5 – 7 and 15 – 20 are allowed. The Office Action indicates claims 2, 3, 4, 11, and 12 would be allowable if rewritten to overcome a rejection under 35 U.S.C. §112, second paragraph. The amendments to claim 2 overcome the rejection under 35 U.S.C. §112, second paragraph.

The Office Action rejects claim 1, 10, and 14, citing 35 U.S.C. §102(b) and FR 2785238. Applicants respectfully submit claim 1 is not anticipated by FR 2785238. First, claim 1 requires the approval criterion to be a function of engine torque. The reference teaches employing predetermined torque limits when the engine is starting (paragraph [0010]) and when the clutch is in a skating condition (paragraph [0013]). The Office Action states, "that the FR art lacks approval criteria to be a function of engine torque is acknowledged…" This should end the inquiry, since claim 1 requires the approval criterion to be a function of engine torque. Additionally, claim 1 requires the default engine torque to be determined as a function of at least one current engine characteristic. The FR reference sets fixed limit values for torque based on a mode selection. Therefore, the rejection should be withdrawn.

The Office Action rejects claim 1, 8 – 10, and 14, citing 35 U.S.C. §103(a), US 6,258,008 to Tabata et al. (hereinafter, "Tabata") and US 6,000,376 to Hess et al. (hereinafter, "Hess"). The Office Action acknowledges "Tabata doesn't disclose the method for reducing the engine torque as claimed." The Office Action relies entirely on Hess as disclosing the claimed method. However, Hess does not provide any approval criterion. According to Hess operating variables can include a desired torque value, a signal representing a degree of actuation β, engine speed, engine load, and engine temperature (See column 2, lines 36 – 55). These operating variables are not approval criterion, because they are never compared to a required value. According to Hess, the operating variables are merely separated into a desired torque value for the charge path and a desired value for influencing the metering of fuel and/or the ignition angle. Hess's method proceeds regardless of what the operating variables happen to be. Therefore, according to Hess, nothing is contingent upon satisfying an approval criterion for an

engine torque. Tabata, Yoshida, and Mabuchi are not cited to compensate for the above-discussed shortcomings of Hess. Favorable reconsideration is respectfully requested.

The Office Action rejects claim 13, citing 35 U.S.C. §103(a), Tabata, Hess, and US 6,742,498 to Mabuchi et al. (hereinafter, "Mabuchi"). This rejection should be withdrawn because of the shortcomings of the combination of Tabata and Hess as already discussed.

The Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.

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